

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

National Association of State Utility Consumer	)	
Advocates (NASUCA) Petition for Declaratory	)	
Ruling Regarding Truth-in-Billing and Billing	)	CG Docket No. 04-208
Format	)	

**COMMENTS OF IDT AMERICA, CORP.**

Andrew D. Fisher  
IDT AMERICA, CORP.  
520 Broad Street, 4<sup>th</sup> Floor  
Newark, NJ 07102  
Tel: (973) 438-3683  
Fax: (973) 438-1455  
andrew.fisher@corp.idt.net

Date filed: July 14, 2004

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

National Association of State Utility Consumer	)	
Advocates (NASUCA) Petition for Declaratory	)	
Ruling Regarding Truth-in-Billing and Billing	)	CG Docket No. 04-208
Format	)	

**COMMENTS OF IDT AMERICA, CORP.**

IDT America, Corp. (“IDT America”)<sup>1</sup> files the following Comments in response to the NASUCA petition for a declaratory ruling, dated March 30, 2004, regarding monthly line items and surcharges imposed by telecommunications carriers (hereafter “NASUCA Petition”).<sup>2</sup>

IDT America strongly supports the Federal Communications Commission’s (“Commission’s”) billing rules. However, at this time, IDT America respectfully submits that the NASUCA Petition should be dismissed as NASUCA has failed to submit any record evidence that the number of complaints regarding line items are at a level requiring the promulgation of *additional* billing rules. Indeed, the Commission’s own statistics show that the number of wireline complaints regarding billing and rates have decreased since the first quarter of 2003. This decrease undercuts the merits of the NASUCA Petition and suggests that the Commission exercise restraint at this time.

NASUCA posits that there is a “contagion” and “epidemic” of misleading line item charges that frustrate consumers’ ability to make informed decisions and “create

---

<sup>1</sup> IDT America, Corp. is licensed as a competitive local exchange carrier in 44 states and provides domestic and international long distances services in all 50 states.

<sup>2</sup> *Public Notice*, CG Docket No. 04-208, DA 04-1495 (May 25, 2004)

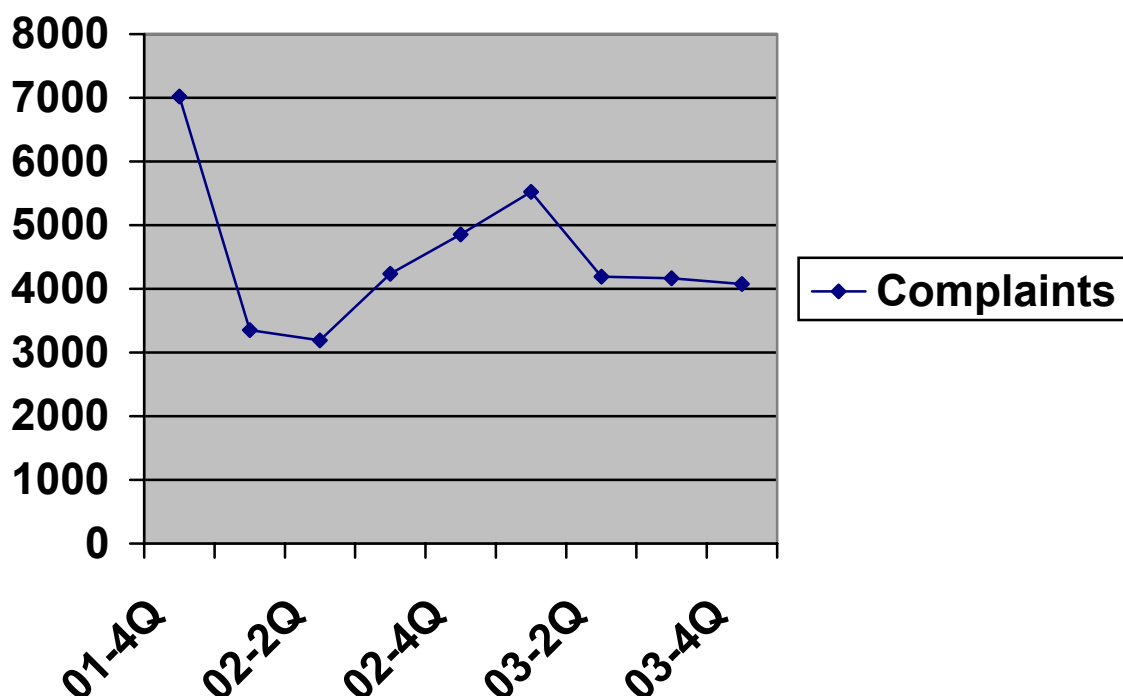
customer confusion.” NASUCA Petition at vii, 7, 1. In particular, it finds that “[i]n recent years, so called ‘regulatory compliance’ surcharges have mushroomed.” *Id.* at 10. NASUCA requests that the Commission enter an order “[p]rohibiting carriers from imposing any separate monthly fees, line items or surcharges unless: (a) such charge is mandated by federal, state or local law, and (b) the amount of such charge conforms to the amount expressly authorized by federal, state, or local governmental authority.” *Id.* at 68.

While IDT America does not question the merits of the truth-in-billing requirements promulgated in the Commission’s *Truth-in-Billing and Billing Format*, CC Docket No. 98-170, FCC 99-72, First Report and Order and Further Notice of Proposed Rulemaking (rel. May 11, 1999) (hereafter “Truth-in-Billing Order”), IDT America does question whether *additional* billing rules are required at this time. Aside from its rhetoric, NASUCA presents no statistical evidence to support its claim of a “mushrooming contagion” of line item problems.<sup>3</sup>

Indeed, given the rather inflammatory rhetoric submitted by NASUCA, one would expect to see a dramatic increase in complaints logged in by the Commission. As shown on the chart below, however, complaint levels regarding wireline billing and rates (which includes “line item” inquiries/complaints) have trended markedly downward since the first quarter of 2003.

---

<sup>3</sup> This omission is surprising. In the Truth-in-Billing Order, the Commission noted that the number of complaints is a factor that must be considered in determining whether truth-in-billing rules should be applied to carriers. If complaint volumes are decreasing at the present time, it may not be appropriate to promulgate additional truth-in-billing rules. FCC 99-72, *supra*, at para. 16.



These statistics are available from Commission’s Consumer and Governmental Affairs Bureau. See <http://www.fcc.gov/cgb/> (visited July 14, 2004). The figures reflect “billing- and rate-related” complaints for wireline carriers. This category specifically includes a subcategory that registers “line item” complaints and inquiries.<sup>4</sup>

In light of the complete absence of any complaint statistics set forth in the NASUCA Petition, *and* the downward trend in wireline complaints regarding billing and rates illuminated by the FCC’s statistics, IDT America respectfully requests that the Commission refrain from taking any action in response to the NASUCA Petition. Simply

---

<sup>4</sup> A complaint is defined as “correspondence received at the [Bureau’s] consumer centers either via letter, fax, email or telephone from or on behalf of an individual that: (i) identifies a particular entity under the FCC’s jurisdiction; (ii) alleges harm or injury; and (iii) seeks relief. The FCC receives many complaints that do not involve violations of the Communications Act or a FCC rule or order. The existence of a complaint does not necessarily indicate wrongdoing by the company involved. The data within this report account for statistics at the national level as reported to the Commission, and therefore are not necessarily indicative of corresponding state or local trends.” *Id.*

put, NASUCA has not met its burden of demonstrating that additional federal billing rules are required at this time.

One of the hoped-for goals of the NASUCA Petition is that “consumers will be able to shop among carriers for the lowest rates, making ‘apples-to-apples’ comparisons, knowing that the only additional charges that they are going to pay for service, are those charges that every other carrier is required to impose.” NASUCA Petition at 66. As a practical matter, it is empirically suspect that NASUCA’s proposal will yield the benefits that it seeks. In today’s environment, carriers are increasingly bundling together many types of services, such as wireline, wireless, Internet access, cable television and digital broadcast satellite, so that an “apples-to-apples” price comparisons are increasingly difficult to make.<sup>5</sup> Some of these services, such as Internet access may even be subject to limited Commission oversight, raising the concern that applying NASUCA’s Petition to certain bundled services could extend the Commission’s authority beyond its scope. Moreover, the NASUCA Petition adds little, if any, clarity to the consumer protection issues associated with billing for a bundled suite of services. Significantly, it is unclear whether the NASUCA proposal would improve (or frustrate) consumers’ ability to make informed decisions about carriers based on the endless number of bundled offerings that are now being marketed.

In the alternative, if the Commission believes that additional rules should be promulgated at this time, IDT America requests that the Commission allow carriers a

---

<sup>5</sup> See, e.g., The Gartner Fellows, Interview – Michael K Powell, by Gartner Fellow Ken McGee (conducted June 15, 2004), reprinted in [http://www3.gartner.com/research/fellows/asset\\_91308\\_1176.jsp](http://www3.gartner.com/research/fellows/asset_91308_1176.jsp). Chairman Powell opines “I don’t think there’s a compelling case for a stand-alone long distance company over a long period of time” and concludes “whoever can get organized and present that information or data – whether news, information, entertainment or basic communications – is going to prosper. And anybody who thinks in narrow platform terms such as cable, satellite or wireless is going to lose; they’re not going to get it fast enough.”

reasonable period of time to implement such new rules. Such reasonable period of time must, at a minimum, permit carriers to implement modifications to their billing systems and comply with applicable customer notification periods. IDT America also requests that the Commission permit carriers to continue to recoup – as part of any government-mandated separate monthly fee, line item or surcharge – administrative, regulatory and other internal charges incurred to collect such fees, line items or surcharges.

For the foregoing reasons, IDT America respectfully requests that the NASUCA Petition be dismissed. In the alternative, if the Commission decides to promulgate additional billing rules at this time, it should (1) afford carriers a reasonable period of time to implement such rules; and (2) permit carriers to continue to recoup administrative, regulatory and internal costs associated with a government-mandated separate monthly fee, line item or surcharge as part of such fee, line item or surcharge.

Date filed: July 14, 2004

Respectfully submitted,

IDT AMERICA, CORP.

By: /s/  
Andrew D. Fisher  
IDT AMERICA, CORP.  
520 Broad Street, 4<sup>th</sup> Floor  
Newark, NJ 07102  
Tel: (973) 438-3683  
Fax: (973) 438-1455  
andrew.fisher@corp.idt.net

CERTIFICATE OF SERVICE

I, Andrew D. Fisher, hereby affirm that one copy of the "Comments of IDT Corp." were mailed today, July 14, 2004, to the following:

Office of the Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Room TW-A325  
Washington, D.C. 20554  
(via electronic submission)

Patrick W. Pearlman  
Deputy Consumer Advocate  
The Public Service Comm'n  
of West Virginia  
Consumer Advocate Division  
723 Kanawha Boulevard, East  
Charles, WV 25301  
(via regular mail)

David C. Bergmann  
Ass't Consumers' Counsel  
Ohio Consumers' Counsel  
10 West Broad Street, Suite 1800  
Columbus, OH 43215-3485  
(via regular mail)

NASUCA  
8380 Colesville Road, Suite 101  
Silver Spring, MD 20910  
(via regular mail)

\_\_\_\_\_/s/  
Andrew D. Fisher